

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, THE
EMPLOYEES RETIREMENT SYSTEM OF THE
GOVERNMENT OF THE COMMONWEALTH OF
PUERTO RICO, AND THE PUERTO RICO PUBLIC
BUILDINGS AUTHORITY,

Debtors.¹

PROMESA
Title III

No. 17 BK 3283-LTS

(Jointly Administered)

**STATUS REPORT OF FINANCIAL OVERSIGHT AND MANAGEMENT
BOARD FOR PUERTO RICO REGARDING COVID-19
PANDEMIC AND PROPOSED DISCLOSURE STATEMENT SCHEDULE**

To the Honorable United States District Court Judge Laura Taylor Swain:

The Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), as Title III representative of the Commonwealth of Puerto Rico (the “Commonwealth”), the Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”), and the Puerto Rico Public Buildings Authority (“PBA”) (collectively, the “Debtors”), pursuant to section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act*

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17-BK-3283- LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17-BK-3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17-BK-3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17-BK-3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17- BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority (“PBA”) (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

(“PROMESA”)², respectfully submits this status report (the “Status Report”) in connection with the *Order Setting Deadline for Status Report Regarding COVID-19 Pandemic and Proposed Disclosure Statement Schedule* [ECF No. 13023] (the “Scheduling Order”).

Background

1. In response to the spread of COVID-19 in Puerto Rico and the Government measures adopted to counteract it, and the consequential effects on the people and economy of Puerto Rico, on March 23, 2020, the Oversight Board filed the *Urgent Motion to Adjourn Hearing to Consider the Adequacy of Information Contained in the Disclosure Statement and Related Deadlines* [ECF No. 12485] (the “Adjournment Motion”).

2. On March 26, 2020, the Puerto Rico Fiscal Agency and Financial Advisory Authority (“AAFAF”) filed its *Informative Motion Regarding the Government of Puerto Rico’s Response to COVID-19 and the Impact on These Title III Cases* [ECF No. 12542], which provided a summary of the government of Puerto Rico’s (the “Government”) response to COVID-19 as of such date and noted the Government’s support for the Oversight Board’s request in the Adjournment Motion.

3. On March 27, 2020, the Court entered the *Order Granting Motion to Adjourn Hearing to Consider the Adequacy of Information Contained in the Disclosure Statement and Related Deadlines* [ECF No. 12549] (the “Adjournment Order”), granting the relief requested in the Adjournment Motion, and directing the Debtors to file a status report “setting forth, in summary terms, the effects of COVID-19 on the Commonwealth and the measures being undertaken in the Commonwealth to address the pandemic, and a proposed schedule for the Disclosure Statement Hearing and related deadlines” on or before May 1, 2020. Adjournment Order ¶ 3.

² PROMESA is codified at 48 U.S.C. §§ 2101-2241.

4. On April 21, 2020, in connection with the April 22, 2020 omnibus hearing, the Oversight Board filed its *Status Report of the Financial Oversight and Management Board Pursuant to Order Dated April 13, 2020 Regarding Procedures for April 22, 2020 Omnibus Hearing* [ECF No. 12910] (the “FOMB April 21 Status Report”), which provided a summary of the intervening measures the Oversight Board had taken, together with the Government of Puerto Rico, to address the COVID-19 pandemic. Similarly, AAFAF filed its *Status Report of the Puerto Rico Fiscal Agency and Financial Advisory Authority Regarding the Government of Puerto Rico’s Recent Activities in Response to the Ongoing COVID-19 Pandemic* [ECF No. 12921] (the “AAFAF April 21 Status Report”), detailing the impact of COVID-19 on Puerto Rico and its economy, and the aid received and measures taken to combat the virus.

5. On May 1, 2020, the Oversight Board filed its *Status Report of the Financial Oversight and Management Board for Puerto Rico Regarding the COVID-19 Pandemic and Proposed Disclosure Statement Schedule* [ECF No. 13018] (the “FOMB May 1 Status Report”), which noted that, among other things, “[g]iven the continuing uncertainty created by the COVID-19 pandemic, the Oversight Board’s immediate focus is to ensure the health and well-being of the people of Puerto Rico and to assess the short- and medium-term impact of the pandemic on Puerto Rico’s economy Before the Debtors’ plan of adjustment and disclosure statement process can move forward, the Oversight Board must assess the pandemic’s impact and extremely difficult recovery ahead for Puerto Rico.” FOMB May 1 Status Report ¶¶ 12-13. The Oversight Board requested in the FOMB May 1 Status Report that it be permitted to provide the Court an updated status report on the Oversight Board’s position on or before July 15, 2020, “which will allow the Oversight Board time to assess a proposed timeline in light of the certified budgets and fiscal plans.” *Id.* ¶ 13.

6. On May 1, 2020, the Court entered the Scheduling Order, setting July 15, 2020 as the deadline for the Oversight Board to provide the Court with an updated status report regarding the timeline for the Debtors' plan of adjustment and disclosure statement process.

Conditions on the Island

7. In the current absence of a vaccine and/or therapy that cures COVID-19, the Oversight Board continues to believe the primary focus of the Government and the Oversight Board should be directed to protecting the health and welfare of the people of Puerto Rico from the COVID-19 virus, while also slowly and prudently reopening critical businesses as appropriate and providing the people of Puerto Rico with ongoing reasonable, comprehensive, and sustainable solutions. As of July 15, 2020, there are 8,714 confirmed and likely cases of COVID-19 and 157 deaths caused by the disease on the Island.³

8. Furthermore, worsening drought conditions on the Island forced the Governor to declare a state of emergency on June 29, 2020.⁴ Approximately 65% of the Island's population is experiencing drought conditions, with approximately 22% of the Island in an extreme state.⁵ Such severe conditions are concentrated in the southern region,⁶ which continues to experience aftershocks from the earthquake swarm earlier this year, including one registering 5.5 as recently as July 6, 2020. In response to the drought conditions, the Government implemented, among other

³ Alejandra Rosa and Frances Robles, *Pandemic Plunges Puerto Rico Into Yet Another Dire Emergency*, N.Y. TIMES, July 9, 2020, at A6, available at <https://www.nytimes.com/2020/07/08/us/coronavirus-puerto-rico-economy-unemployment.html>; see also Departamento de Salud, COVID-19 Cases in Puerto Rico, available at <http://www.salud.gov.pr/Pages/coronavirus.aspx>.

⁴ *Orden Ejecutiva de la Gobernadora de Puerto Rico, Hon. Wanda Vázquez Garced, Para Declarar un Estado de Emergencia Respecto al Uso de Las Aguas Por Sequía y Establecer un Plan de Acción Interagencial Teniendo Como Guía el Protocolo Para el Manejo de Sequía en Puerto Rico Vigente*, Administrative Bulletin No. OE-2020-049.

⁵ National Integrated Drought Information System, *Drought in Puerto Rico*, available at <https://www.drought.gov/drought/states/puerto-rico>.

⁶ See *id.*

things, strict water rationing measures, requiring nearly 140,000 people to be without water for 24 hours every other day, beginning July 2, 2020.⁷ The Oversight Board continues to work with the Government to develop solutions as these conditions and their effects persist.

FY2021 Fiscal Plan and Budget

9. As referenced in the FOMB May 1 Status Report, before the Debtors' plan of adjustment and disclosure statement process could continue, the Oversight Board needed to assess the new and changing economic landscape that the COVID-19 pandemic, as well as the earthquakes (and now the drought), created. The Oversight Board has completed the first step in this process by developing and certifying revised fiscal plans for the Commonwealth and eighteen (18) instrumentalities, agencies and municipalities, and, where required, budgets.

Development and Certification of FY2021 Fiscal Plan

10. On May 4, 2020, the Governor submitted a proposed fiscal plan for the Commonwealth to the Oversight Board for review to determine whether it satisfied the requirement set forth in PROMESA section 201(b). Over the following weeks, the Oversight Board worked with the Governor and staff to develop a fiscal plan that addressed the realities and projected responses on-island.

11. On May 27, 2020, the Oversight Board certified the 2020 Commonwealth fiscal plan (the "Commonwealth 2020 Fiscal Plan"),⁸ which provides the following measures, among other things, to address the COVID-19 pandemic and other disasters and the redevelopment of the Commonwealth economy:

- i. Use of \$9 million requested for the first required steps of demolition and debris removal as a result of the earthquakes in Guayanilla, Guánica, and

⁷ The last drought on the Island requiring the implementation of water rationing measures occurred five years ago.

⁸ 2020 Fiscal Plan for Puerto Rico (May 27, 2020), available at <https://drive.google.com/file/d/1ayjLxr74cKpFo4B2sAToSj-OeJOYvFO5/view?usp=sharing>.

Peñuelas, which are a prerequisite for redevelopment of the southwest region;⁹

- ii. A one-year pause in the further reduction of Commonwealth appropriations to municipalities, leaving FY2021 appropriations at the same level as FY2020 (\$132 million), rather than a decline by \$44 million in the 2019 fiscal plan;¹⁰ and
- iii. A short-term liquidity facility of up to \$185 million, funded by the Commonwealth, to ensure that CRIM¹¹ can continue to advance monthly tax remittances to municipalities, which are crucial for municipal operations, while the personal property tax return deadline has been deferred during the COVID-19 pandemic.¹²

12. In addition, and as noted above, in the month of June, the Oversight Board certified eighteen (18) separate fiscal plans for the following:

- i. the University of Puerto Rico (June 12, 2020),¹³
- ii. the Puerto Rico Sales Tax Financing Corporation (COFINA) (June 19, 2020),¹⁴
- iii. HTA (June 26, 2020),¹⁵
- iv. the Municipal Revenue Collection Center (CRIM) (June 26, 2020),¹⁶
- v. PREPA (June 29, 2020),¹⁷
- vi. the Puerto Rico Industrial Development Company (PRIDCO) (June 29, 2020),¹⁸

⁹ Commonwealth 2020 Fiscal Plan at 226-27.

¹⁰ Commonwealth 2020 Fiscal Plan at 227.

¹¹ The Municipal Revenue Collection Center (“CRIM”).

¹² Commonwealth 2020 Fiscal Plan at 227.

¹³ *Fiscal Plan for the University of Puerto Rico* (June 12, 2020), available at <https://drive.google.com/file/d/13jNcdKHsZiOBMH6tWdeZeN3YSFidL2z/view>.

¹⁴ *2020 COFINA Fiscal Plan* (June 19, 2020), available at https://drive.google.com/file/d/1Yuq9LwXZ2H0O_lvd_SIYIb-SjOSsNDb4/view?usp=sharing.

¹⁵ *2020 Fiscal Plan for the Puerto Rico Highways & Transportation Authority (HTA)* (June 26, 2020), available at <https://drive.google.com/file/d/1Q0mKHgAMiPHI5rkWBw6REI4VU7jA6Uqs/view>.

¹⁶ *Fiscal Plan for the Municipal Revenue Collection Center* (June 26, 2020), available at <https://drive.google.com/file/d/1YaAPTfhd22BD0ON8yBatLiRLF4vJF85k/view>.

¹⁷ *2020 Fiscal Plan for the Puerto Rico Electric Power Authority* (June 29, 2020), available at <https://drive.google.com/file/d/1YaAPTfhd22BD0ON8yBatLiRLF4vJF85k/view>.

¹⁸ *2020 Fiscal Plan for the Puerto Rico Industrial Development Company* (June 29, 2020), available at https://drive.google.com/file/d/1YQE-Z5yyXvIL1A_rxSSLx1E6jY6jz5Lj/view.

- vii. the Public Corporation for Supervision and Insurance of Cooperatives (COSSEC) (June 29, 2020),¹⁹
- viii. the Puerto Rico Aqueduct and Sewer Authority (PRASA) (June 29, 2020),²⁰ and
- ix. 10 municipalities (June 29, 2020).²¹

Development and Certification of FY 2021 Budget

13. On May 8, 2020, the Governor submitted a proposed budget for the Commonwealth for fiscal year 2021 for review to determine whether it is compliant with the fiscal plan (the “Proposed FY2021 Budget”). On June 1, 2020, the Oversight Board issued a Notice of Violation pursuant to PROMESA section 202(c)(1)(B), determining that the Proposed FY2021 Budget is not compliant with the Commonwealth 2020 Fiscal Plan. Despite the issuance of such Notice of Violation, the Oversight Board continued to work with the Governor and staff to develop a compliant budget for the Commonwealth.

14. On June 10, 2020, the Oversight Board submitted a proposed 2021 General Fund budget to the Puerto Rico Legislature pursuant to PROMESA section 202(c).²² On June 19, 2020, the Governor filed House Joint Resolution 744 with the Puerto Rico Legislature, outlining the 2021 General Fund budget.

15. On June 25, 2020, the Puerto Rico House of Representatives approved a substitute 2021 General Fund budget resolution that replaced House Joint Resolution 734, proposed by the Oversight Board, and House Joint Resolution 744, proposed by the Governor. However, the

¹⁹ *2020 Fiscal Plan for COSSEC* (June 29, 2020), available at <https://drive.google.com/file/d/15Y9z8zYk0kGaGppMk46K-AFv3eN50xtL/view>.

²⁰ *2020 Fiscal Plan for the Puerto Rico Aqueduct and Sewer Authority (PRASA)* (June 29, 2020), available at https://drive.google.com/file/d/1d9bcj0Tsddbty5q4DCnOwxDItp7Q1_mr/view.

²¹ These include the municipalities of Aibonito, Barranquitas, Cidra, Camuy, Comerío, Isabela, Orocovis, Quebradillas, San Sebastián, and Villalba. See Financial Oversight & Management Board for Puerto Rico - Documents, available at <https://oversightboard.pr.gov/documents/>.

²² See also Puerto Rico House Joint Resolution 734.

Government was not able to approve and present to the Oversight Board a budget for fiscal year 2021 by the June 30, 2020 deadline pursuant to PROMESA section 202(e)(3).

16. As a result, on June 30, 2020, the Oversight Board certified its own \$22.2 billion fiscal year 2021 consolidated budget for the Commonwealth that contemplates \$10.4 billion in spending from the General Fund along with special revenue and federal funds being allocated.

Timeline for Debtors' Plan of Adjustment and Disclosure Statement

17. Having completed the process of certifying the Commonwealth fiscal plan and corresponding budget, the Oversight Board has resumed discussions with AAFAF concerning the terms of a plan of adjustment and what, if any, modifications or amendments need to be proposed to the plan of adjustment and disclosure statement filed with the Court on February 28, 2020. The Oversight Board anticipates that, in the coming weeks, the Oversight Board and AAFAF shall entertain discussions with creditors (those party to the Plan Support Agreement, as amended on March 13, 2020 and April 1, 2020, as well as other parties in interest), with the guidance of the mediation team led by the Honorable Judge Barbara J. Houser, to address the new reality created by the COVID-19 pandemic. The discussions with creditors will take into account, among other things, this Court's June 26, 2020 decisions in connection certain motions for relief from the automatic stay filed by holders and insurers of HTA bonds, CCDA bonds, and PRIFA Rum Tax Bonds.²³ Furthermore, the outcome of the ongoing litigation regarding the ERS bonds²⁴ will guide

²³ *Opinion and Order in Connection with Preliminary Hearing Regarding Motion Concerning Application of the Automatic Stay to the Revenues Securing the CCDA Bonds* [ECF No. 13540]; *Opinion and Order in Connection with Preliminary Hearing Regarding Amended Motion of Ambac Assurance Corporation, Financial Guaranty Insurance Company, Assured Guaranty Corp., Assured Guaranty Municipal Corp., and U.S. Bank Trust National Association, Concerning Application of the Automatic Stay to the Revenues Securing PRIFA Rum Tax Bonds* [ECF No. 13542]; *Opinion and Order in Connection with Preliminary Hearing Regarding Motion of Assured Guaranty Corp., Assured Guaranty Municipal Corp., Ambac Assurance Corporation, National Public Finance Guarantee Corporation, and Financial Guaranty Insurance Company for Relief from Automatic Stay, or, in the Alternative, Adequate Protection* (Docket Entry No. 10102) [ECF No. 13541].

²⁴ Adv. Proc. Nos. 19-356, 19-357, 19-359, 19-361, 19-366, and 19-367. Pursuant to this Court's June 23, 2020 *Order Modifying Discovery and Briefing Schedule with Respect to Certain Issues Raised in Certain Contested*

the parties with respect to claims, if any, that may impact the revision of the Commonwealth's proposed plan of adjustment.

18. While the Oversight Board has resumed plan discussions, because of the fluid situation on the Island, the Oversight Board is unprepared at this time to propose a schedule for the Debtors' plan of adjustment and disclosure statement processes. Although the Commonwealth's fiscal plan has been certified, the Oversight Board is mindful that the uncertainty of the cessation of the ongoing COVID-19 pandemic, fiscal and economic determinations announced by authorities, and the challenges presented by the severe drought conditions require that the fiscal plan's assumptions be tested in the coming months. Furthermore, political and legislative calendars, including the ongoing electoral process and the closure of the current legislative sessions, impact the timing associated with receiving governmental assent and gaining legislative approval for the issuance of indebtedness pursuant to a plan of adjustment.

19. Accordingly, the Oversight Board requests that it be permitted to provide the Court an updated status report on the Oversight Board's position on or before **September 11, 2020** (prior to the September omnibus hearing), which will allow the Oversight Board time to assess the fiscal plan's assumptions, and report on the progress (and, hopefully, the completion) of plan discussions with AAFAF, creditors and the Court-appointed mediation team.

Collection of PBA Proofs of Claim and Retiree Benefit Information

20. Due to the restrictions imposed by various executive orders of the Governor in response to the COVID-19 pandemic and their impact on various publications and the people of Puerto Rico, including, without limitation, an inability to open and operate collection centers, on

Matters and Adversary Proceedings Related to the Bonds issued by the Employees Retirement System of the Government of the Commonwealth of Puerto Rico [ECF No. 13475], discovery will conclude at the end of July, and briefing on summary judgment motions will conclude at the end of September.

June 10, 2020, the Oversight Board filed motions requesting the Court to extend the deadline by which creditors of PBA must file proofs of claim and certain employee claimants must submit information forms containing certain requested information in connection with the solicitation of the disclosure statement from June 26, 2020 to July 29, 2020.²⁵ By orders, dated June 11, 2020,²⁶ the Court granted the relief requested.

21. Due to the Governor's limited reopening of facilities, as of July 1, 2020, all five collection centers on the Island have opened and have been receiving proofs of claim and retiree benefit information forms. Accordingly, neither PBA nor ERS intend to seek a further extension of the deadline to submit proofs of claims or information forms.

Dated: July 15, 2020
San Juan, Puerto Rico

Respectfully submitted,

/s/ Martin J. Bienenstock

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²⁵ *Urgent Motion (A) to Extend Deadline for Filing Proofs of Claim and (B) to Approve Form and Manner of Notice Thereof* [ECF No. 13398]; *Urgent Motion of the Commonwealth of Puerto Rico and the Employees Retirement System of the Government of the Commonwealth of Puerto Rico for Entry of an Order (A) Extending the Return Date for Filing of Information Forms and (B) Approving Form and Manner of Notice Thereof* [ECF No. 13399].

²⁶ *Order (A) Extending Deadlines for Filing Proofs of Claim and (B) Approving Form and Manner of Notice Thereof* [ECF No. 13403]; *Order Granting Urgent Motion of the Commonwealth of Puerto Rico and the Employees Retirement System of the Government of the Commonwealth of Puerto Rico for Entry of an Order (A) Extending the Return Date for Filing of Information Forms and (B) Approving Form and Manner of Notice Thereof* [ECF No. 13402].

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